IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

Crl.MC.No. 4466 of 2005()

LP.58/1993 of CHIEF JUDICIAL MAGISTRATE COURT, MANJERI
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PETITIONER: PETITIONER/IST ASSUSED

PUTHIYA MALIYEKKAL SEETHIKOYA THANGAL,
S/O.KOYAKUTTY THANGAL, AGED 70 YEARS, KAKOOTH
AMSOM, MANATHUMANAGALAM DESOM, PERINTHALMANNA.

BY ADV. SRI.M.P.PRABHANANDAN
SRI.SOJAN MICHEL

RESPONDENTS: RESPONDENT/COMPLAIANANT

STATE OF KERALA REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 21/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

CRL. M.C. NO. 4466 OF 2005

Dated this the 21st day of November 2006

ORDER

The petitioner is the 1st accused in C.C. No. 20/1992/L.P. No. 58/1993 in the court of Chief Judicial Magistrate, Manjeri with respect to the offence under section 9 B (1) (b) and 9B (2) of the Explosive Act, 1884 has sought for setting aside the proceedings against him. It is submitted that the petitioner is aged 70 and that he was working abroad during the relevant period and has returned back only in the year 2001. While he was abroad the alleged incident had taken place and in the incident the son of the petitioner has also died. The petitioner as well as the second accused who is his son-in-law was arrayed as the accused. After trial the second accused was acquitted.

2. The petitioner has produced the duly attested copy of the passport which would show that he left abroad on 30.01.1989. The incident had taken place on 03.04.1989. It is pointed out that it was found by the Annexure II judgment that the petitioner stopped the business in fire works and went abroad in the year 1979. It was found that since 31.3.1989 the licence was not renewed. It was also found that the business was conducted by the second accused in the

premises not stipulated in the licence. The petitioner has also produced final report which should show that the first accused/petitioner was abroad at that time. Inspite of the allegations with respect to the action of the second accused in conducting business without renewing the licence and running the business in the premises not covered by the licence the second accused was acquitted.

3. The Government Pleader was heard.

In the circumstances, I find that the accusation against the petitioner/1st accused cannot be sustained in view of the fact that at the time of the incident the petitioner had no valid licence and also as at the time he was not conducting the business. It is seen that he was not in India at the time of the incident also. It is also to be noted that the incident is of the year 1989. I find that no purpose will be served in further proceeding with the matter. In the result, the proceedings pending as L.P. No. 58/1993 of Chief Judicial Magistrate, Manjeri is herewith quashed. The Crl. M.C is allowed.

K.R. UDAYABHANU, JUDGE.

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